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INDIRECT COMPULSORY EDUCA-
TION—THE FACTORY LAWS
OF MASSACHUSETTS AND
CONNECTICUT

BY
JOHN W. PERRIN

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INDIRECT COMPULSORY EDUCATION—THE FACTORY LAWS OF MASSACHUSETTS AND CONNECTICUT

In every system of universal education, there are two essential elements. First, schools must be established and supported; and second, all children of school age, either by public opinion or obligatory laws, must be required to attend them unless other adequate means of education are provided.

This was fully understood by the New England Puritans. The first two acts relating to education passed by the General Court of Massachusetts created a system of universal education; and Connecticut followed the example thus set when the code of 1650 was adopted.¹ From their establishment in the seventeenth century until early in the nineteenth, the fundamental principles of these systems remained unchanged. The school legislation of the intervening period was either to make more ample provision for the establishment and support of schools, or to increase the effectiveness of existing attendance laws. Indeed, the very first statute on education passed by Connecticut in the last century did little more than reiterate the principles set forth so clearly in the first code. This statute was enacted in 1805, and required all parents to see that "their children are able to read the English tongue well and know the laws against capital offenses." It differed from the code only in the penalty fixed for failure to comply with its provisions.²

These early laws were quite faithfully executed in both commonwealths. They expressed the educational creed of a majority of the people, and the high intelligence that has characterized the people from the earliest times is sufficient evidence of their utility. It should be said, however, that the success-

¹ See article "Beginnings in compulsory education," by John W. Perrin, *EDUCATIONAL REVIEW*, March, 1903.

² The Public Statutes of Connecticut (Hartford, 1808), p. 123.

ful administration of these systems was due primarily to the favorable conditions under which they were established. The people were homogeneous and well-to-do. They were intelligent and industrious. Besides this, the Protestant creed which they professed had been from its origin the stanch friend of such systems as these commonwealths had established. Indeed, universal education was the basal stone on which Protestantism had been reared. This explains the unanimity of thought relative to these systems, and the united action that was given to their support.

A new industrial system began in the latter part of the eighteenth century. This completely changed the simple social arrangement that had characterized New England for more than a hundred and fifty years. In England, the inventions of Hargreaves, Crompton, Arkwright and Watt had revolutionized the manufacture of textile fabrics. The old methods were superseded by organized manufacturing establishments. The cottage of the weaver could no longer be his factory. To support himself and family, he was now required to move to the nearest town and engage in the employ of some capitalist.

While this new régime was indispensable to the further economic development of England, it was attended with most evil consequences. Soon it was found that very young children could do the lighter portions of the work. Then many children from the poorest families in the south of England were sent by the poor-law-overseers to be apprenticed in the manufacturing districts of the north. Here they were treated little better than slaves. They were worked night and day, and it is said that "one gang, when exhausted, went to rest in the beds still warm of those coming on to work."³ Besides this they were ill fed and poorly clothed.

The overworking and underfeeding of these pauper children soon led to an epidemic of disease. In 1796, the attention of the public was directed to the evils. This was done thru the labors of Doctors Aiken and Percival who had been appointed to investigate them.⁴ The report they made empha-

³ *The state in its relation to labor*, by W. Stanley Jevons (London), p. 53.

⁴ Hansard's *Parliamentary debates*, third series, vol. xvii, p. 85.

sized so strongly the evils of the factory system, so far as it related to child labor, that Sir Robert Peel, in 1802, introduced a bill in Parliament to remedy them. The bill became a law. It is known as the "Health and Morals Act." In addition to providing better sanitary conditions in factories; better clothing for apprentices; fixing the number of hours of labor each day, and with some exceptions prohibiting entirely night work, it made provision for the instruction of all apprentices in reading, writing, and arithmetic.⁵

Thus it is seen that in little more than a decade of years after the establishment of the factory system in England, legislation was required for the removal of evils that had followed it. In New England there was the same tendency to establish factories. This tendency differed from that in England where there was greater capital and more skilled labor only in degree. Both manifested the same spirit. As early as 1785 Boston formed an "Association of Tradesmen and Mechanics."⁶ Four years later Providence founded its "Association of Mechanics and Manufacturers" for "promoting of industry, and giving just encouragement to ingenuity."⁷

Another evidence that this tendency prevailed in New England is found in the establishment of a large factory in Boston in 1788 or 1789. This was for the manufacture of linen canvas. Besides this, Weeden says that "from 1785 to 1791 cotton was being introduced into the Southern States from West Indian seed, to meet the new demand for Northern manufacturers as well as for exportation."⁸ But the real development of the manufacture of textile fabrics began under the Embargo Act. At the end of 1807 there were but fifteen cotton mills in the United States. Two years later eighty-seven more had been built. In 1810 Gallatin made his report on American manufactures. He roughly estimated the total annual value of all manufactured products at \$120,000,000.⁹

⁵ Jevons, p. 54.

⁶ *Economic and social history of New England, 1620-1789* (Boston), by William B. Weeden, vol. ii, p. 847.

⁷ *Ibid.*, p. 850.

⁸ *Ibid.*, p. 851.

⁹ *History of the United States of America under the constitution*, by James Schouler (Washington, D. C., 1889), vol. ii, p. 298.

As in England, this economic development had its disadvantages. In both Massachusetts and Connecticut child labor was used. The children, however, were not so cruelly treated as in England before the "Health and Morals Act." They never were slaves in any sense; but the practice of binding out was common, and this usually resulted in loss of educational privileges. This evil was so great in Connecticut that by 1813 the old compulsory attendance laws were practically a dead letter in many localities. But the spirit of old Puritan days was not extinct. Strong efforts were put forth to destroy the evil. In 1813 the General Assembly took up the matter. A law was passed that required the proprietors of manufacturing establishments to give attention to the morals of children in their employ and to provide instruction for them in reading, writing, and arithmetic. The selectmen of each town were made a board of visitors to ascertain annually whether the law was obeyed, and to report all violations to the "next county court."¹⁰

When the statutes were revised in 1821 this law was re-enacted and remained on the statute books until 1842, but it never realized the expectations of its friends. It had two defects. It contained no provision for school instruction, but merely specified that certain subjects should be taught. Thus the character of the instruction which after the teacher is the most important element in elementary education was left to the proprietors. The second defect was the want of a provision requiring towns under penalty to organize boards of visitors. Dr. Henry Barnard said of the statute in 1840, "It is a dead letter in nearly if not every town in the state. I know not of a single instance where the board of visitation authorized by the act has been organized."¹¹

A new act was passed in 1842. This forbade the employment of any child under fifteen in any factory, or in any other business, until he had attended "some public or private day

¹⁰ *Report of the Commissioner of Education, 1888-1889* (Washington, D. C.), vol. i, p. 486.

¹¹ *Public Acts Passed by the General Assembly of the State of Connecticut, May session, 1842* (Hartford, 1842), p. 40-41.

school where instruction was given by a teacher qualified to instruct in orthography, reading, writing, English grammar, geography, and arithmetic, at least three months of the twelve months next preceding any and every year in which such child shall be so employed." Violations were made punishable by a fine of twenty-five dollars to be paid into the treasury of the state. The evidence required that the child seeking employment had fulfilled the conditions prescribed was a certificate signed and sworn to by his teacher. Another provision fixed the hours of labor for all children under fourteen at ten. Any violation of this was made punishable by a fine of seven dollars for each offense.¹¹

This law was a marked improvement over that of 1813. If it had had the support of public opinion, there is little doubt but that it would have destroyed the evil at which it was aimed. But it did not have that support, and soon it practically became a dead letter. State Superintendent Daniel C. Gilman in his report for 1866, says of it: "In many cases the proprietors or agents of manufacturing establishments would willingly see the provisions of the statute sustained, but they are well aware that the law is not obeyed thru the state, and are apprehensive that they shall lose both parents and children as operatives if they refuse the latter work."¹²

An important amendment was made to the laws in 1855. Before this date no age limit had been prescribed. In the new law the General Assembly fixed the minimum age at which children could take service in factories at nine. The law was again amended in the following year and the minimum age fixed at ten.¹³

The law of 1842 with various amendments continued in force twenty-five years. In 1867 it was superseded by a new act

¹¹ Public Acts passed by the General Assembly of the State of Connecticut, May session, 1842 (Hartford, 1842), p. 40-41.

¹² *Connecticut school report*, 1866, p. 82-83.

¹³ Third Annual Report of the Bureau of Labor Statistics of the State of Connecticut for the year ending November 30, 1887 (Hartford, 1887), p. 156. The English parliament, in 1819, fixed nine years and upwards as the age at which children could be admitted to labor in cotton mills. The same provision was made in the Althorp Act of 1833. Hansard's *Parliamentary debates*, third series, vol. xvii, p. 85 *et seq.*, gives a history of English legislation on this subject from 1802 till 1833.

which fixed the penalty for working children more than ten hours a day, or fifty-eight hours per week, at forty dollars. Half the fine was to go to the person who made the complaint and successfully prosecuted the case; the other half was to be paid into the town treasury.¹⁴

These various acts but partially remedied the defects of the act of 1842. In 1869 a new employment law was passed. This was by far the most important piece of legislation relative to child labor yet enacted in this state. The law of 1842 forbade the employment of children under fifteen years of age unless they had been in school three months of the preceding year. The new law changed this limit to fourteen. Just why this change was made is not clear. It may have been a concession to employers and parents to make the other provisions of the law which were more exacting than the law of 1842 seem less stringent. By the latter act only manufacturers, agents, and superintendents could be prosecuted; under the new act all employers were liable to prosecution. The penalty was a fine as originally, but it was increased from twenty to one hundred dollars. It again improved on the act of 1842, which required boards of visitors to examine into the execution of the law and report violations of it, when it required state attorneys and grand juries to co-operate with them. But still more important was the provision that authorized the State Board of Education to appoint one of its number or some other suitable person as agent to enforce the law.¹⁵ This agent was to be under the control of the State Board of Education at all times. The act of 1842 had left the execution of the law to local boards which at best meant that the law would be only partially enforced.

The most serious objection that could be urged against the act of 1869 was destroyed by a new law passed two years later. The act of 1869 took children out of factories, or kept them out if they had not yet taken employment. But it did not send them to school: this was the purpose of the law of 1871. The new law provided that all parents or guardians of children who

¹⁴ Public Acts Passed by the General Assembly of the State of Connecticut, 1866 to 1871 inclusive (Hartford, 1871), p. 119.

¹⁵ *Ibid.*, p. 333.

had been employed in factories or other business and had been temporarily discharged for the purpose of going to school should see that they were put into school. The penalty for non-compliance was five dollars for each and every week not exceeding thirteen in any one year.

This law with that of 1869 made a complete system of obligatory education for factory children. Many parents who were factory operatives regarded the new law as a species of class legislation and bitterly opposed it. Dr. B. G. Northrup, who was state superintendent when the act was passed, said: "The only objection made to this law, within my knowledge, is its limitation to the parents and guardians of those children *who are hired out*. They ask, 'while we are justly required to send our children to school, why are the parents of children unemployed, it may be the idle and vicious, excused?' This has the look of class legislation. Make this law impartial and universal in its obligation, and you remove the only real objection as yet urged against it."¹⁶ The opposition of the factory operatives had a good result. It was one of the factors that led to the law of 1872 which established obligatory education thruout the state irrespective of class.

Since 1871 the law has been modified several times, but the principle has remained the same. As it now stands "no child under fourteen years of age shall be employed in any mechanical, mercantile or manufacturing establishment." "No minor under sixteen shall be employed" in such establishments "more than ten hours in any day, except when it is necessary to make repairs to prevent the interruption of the ordinary running of the machinery, or where a different apportionment of the hours is made for the sole purpose of making a shorter day's work for one day of the week." If the child is illiterate he must be at least sixteen before he can take such service, and then "cannot be employed except during school vacation" unless he attends an evening school or "complies with other educational requirements."¹⁷

Legislation on this subject did not begin as early in Massa-

¹⁶ Report of Commissioner of Education, 1881-89, vol. i, p. 487.

¹⁷ General Statutes of 1902, ch. 130, 132, 273.

chusetts as in Connecticut. The first Massachusetts act was in 1836. The immigration of a manufacturing and a foreign population had destroyed the former homogeneity of the people. Where formerly there had been unanimity of thought and action in the solution of educational problems there were now many differing opinions. Society was divided into sects and classes, not all of which espoused the cause of popular education. Some indeed antagonized it. The system that had answered the needs of the commonwealth almost from the day of its first settlement began to lose its vitality. It was seemingly unable to deal with the problem. In 1834, alarmed at the condition which confronted it, the state made provision for a public school fund; and two years later passed the act to which reference has been made.

The law was approved by the governor April 1, 1837. It provided that no child under fifteen years should be employed in any manufacturing establishment unless he had attended some public or private day school kept by some qualified teacher at least three months of the twelve immediately preceding the year in which he was employed. Employers who violated this provision were liable to a fine of fifty dollars which was to be paid into the town treasury for the use of the schools.¹⁸

This was a more advanced step than Connecticut had yet taken. It cannot be said, however, to have been a much greater one than England had taken in the Hobbhouse and Althrop Acts of 1825 and 1833. The first of these made a thoro restriction of the labor of children under sixteen years of age and provided for a "quarter-holiday" on Saturday. By the act of 1833 the education of factory children was made compulsory. Children were not to work more than nine hours each day, and were required to spend two more hours daily in school.¹⁹

Massachusetts amended her act of 1836, in 1837 or 1838, so as to release employers from liability to punishment, in case

¹⁸ *Laws of the Commonwealth of Massachusetts*, 1836 (Boston, 1836), p. 950.

¹⁹ "It is said that this 'half-time' principle was quite accidentally discovered. Some means being sought whereby evidence should be available that a child was not working at a certain hour, it was suggested by Mr. Chadwick that presence in school would afford the best possible evidence," Jevons, p. 55, 56.

they were provided with sworn certificates that the children in their employ had attended school the length of time specified in the statute.²⁰ Horace Mann, who was Secretary of the State Board of Education from the date of its organization in 1837 till 1848, wrote earnestly of this law in his report for 1840. He urged the necessity of "limiting the greed of both heartless employers and unnatural parents."²¹ In 1842 legislation was effected that limited the hours of labor of children under twelve years to ten. This was a backward step, for the standard thus fixed was not up to that set by either the Connecticut law of the same year or the English act of 1833. The Connecticut law had limited the hours of labor of children under fourteen to ten.²² The English act went a step further and fixed the hours of labor for children between the ages of nine and thirteen at nine.

From this date until 1866 most of the legislation relating to obligatory education had reference to the truancy problem which had now become an exceedingly troublesome one. However, in 1865 an act was passed that required eighteen weeks of each year in school of all working children under twelve years, and twelve weeks of all between twelve and fifteen years. In this same year a resolution was passed by the legislature that authorized the governor to appoint a commission "to collect information and statistics in regard to the hours of labor, and the conditions and prospects of the industrial classes." Governor Andrew appointed such a commission in February of the next year. The commissioners first considered the education of the children. They said in their report: "A saddening amount of testimony has been brought before the commissioners concerning the frequent and gross violation of the law."²³ The commission favored the "half-time" system, and recommended the adoption of some plan that would

²⁰ Seventh Annual Report of the Bureau of Statistics of Labor of Massachusetts, 1876 (Boston, 1876), p. 264.

²¹ *Ibid.*, p. 267.

²² Third Annual Report of the Bureau of Labor Statistics of the State of Connecticut for the year ending November 30, 1887, p. 156.

²³ Seventh Annual Report of the Bureau of Labor of Massachusetts, 1866, p. 273.

lead to it, if it were deemed best not to adopt it immediately in detail. As an inducement to its adoption, the commission further recommended that where the "half-time" system was adopted, and carried out in good faith, the laws then in force pertaining to working children should not be considered binding.²⁴

The recommendations of the commission were never embodied in a statute. But the same year the report was made, the most important piece of legislation yet given to Massachusetts on this subject was enacted. Under its provisions no child under the age of ten could be employed in any manufacturing establishment. Between the ages of ten and fourteen, no child could be so employed unless he had attended some public or private day school for not less than six months of the year preceding that in which his employment would begin. The school too must have been approved by the school committee of the place where it was located. Anyone knowingly employing a child who had not had this school training was made liable to punishment by a fine not exceeding fifty dollars. The act made one other important provision: Children under the age of fourteen who were employed in manufacturing establishments under the conditions already specified were not to spend more than eight hours of any one day in labor. Parents and guardians were made responsible for any violations of this restriction, under a penalty of a fine not to exceed fifty dollars for each offense.²⁵

In the next year, 1867, another act was passed that related to the education and hours of labor of children employed in "manufacturing and mechanical establishments." This provided, as did the act of 1866, that no child under the age of ten could be employed in any manufacturing or mechanical establishment. Between this age and fifteen children could be employed only after they had attended some public or private day school under teachers approved by the school committee of the place where the school was located, for at least three months of the year preceding the one in which employment was taken.

²⁴ *Ibid.*, p. 273.

²⁵ Acts of Massachusetts, 1866, ch. 273.

They must also have resided six months in the state preceding the time their employment began. The school requirement was to continue every year until the age of fifteen, "Provided that tuition of three hours per day in a public or private day school approved by the school committee of the place in which such school is kept, during a term of six months, shall be deemed the equivalent of three months' attendance at a school kept in accordance with the customary hours of tuition; and no time less than sixty days of actual schooling shall be accounted as three months, and no time less than one hundred and twenty half-days of actual schooling shall be deemed an equivalent of three months."²⁶ Two years later cities and towns were authorized to establish and maintain evening schools for children over twelve years of age.²⁷

Since 1870 legislation on this subject has been much the same in principle as that embodied in the laws of 1866 and 1867. In 1873 at the same session when the new compulsory attendance and truant laws were passed, a new act was introduced to further regulate the problem of child labor. But it failed to pass. It was offered in the next two succeeding sessions without avail. In 1876, however, it became a law. The principal feature of this law was that it made previous legislation on this subject apply to mercantile as well as to manufacturing and mechanical enterprises. This was done because of the large number of small boys who had taken employment in the large retail stores as cash and errand boys.²⁸ The essential difference between this statute and those of 1866 and 1867 was that it applied to children between the ages of ten and fourteen, whereas in the latter statutes the age limit was from ten to fifteen years. These latter laws had been modified by the compulsory law of 1873. This had extended the time of required school attendance to twenty weeks.²⁹ This provision was likewise extended to the new law.

²⁶ Acts of 1867, ch. 285.

²⁷ Acts of 1869, ch. 305. There was further legislation on this subject in 1872. See Acts of 1872, ch. 86. In 1883 the support of evening schools was made compulsory in towns having ten thousand inhabitants.

²⁸ Reports of Commissioner of Education, 1888-89, vol. i, p. 475.

²⁹ *Ibid.*, p. 474.

The next law was passed in 1888. This prohibited the employment of any child under thirteen years of age "in any factory, workshop, or mercantile establishment." Neither could such child be employed in any indoor work, for wages, during the hours when the public school of the place of his residence were in session unless he had attended school "for at least twenty weeks as required by law." Children under fourteen years of age could be employed in factories, workshops, or mercantile establishments only during the vacation of the public schools of the place where they resided, unless the employer kept on file an "employment ticket" and an "age and schooling ticket." The former ticket gave a description of the child to be employed, and contained a declaration of the employer's or agent's intention to employ him. The latter was a sworn statement made by the father, mother, or guardian of the child as to his age and to the effect that the requirements of the law as to schooling had been fully satisfied.³⁰

The present law retains the provision for the "employment ticket" and the "age and school ticket." The school requirement is made to apply to all children between seven and fourteen. In connection with this is a provision to the effect that, "Whoever induces or attempts to induce a child to absent himself unlawfully from school, or employs or harbors a child who, while school is in session, is absent unlawfully from school shall be punished by a fine of not more than fifty dollars." The hours of labor of all minors under eighteen in manufacturing, mechanical, and mercantile establishments are not to "exceed fifty-eight in a week." This, however, is not to "apply during December to persons who are employed in shops for the sale of goods at retail."³¹

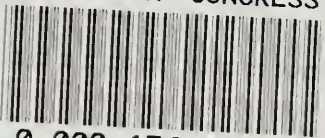
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³⁰ *Labor laws of Massachusetts*. Compiled by Horace G. Wadlin, Chief of the Bureau of Statistics of Labor (Boston, 1890), p. 67-79.

³¹ Revised Laws of 1902. Ch. 54, 106.

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